



CIVIL COVER SHEET

14-CV-7035

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON REVERSE PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ker'ron Jones

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Philadelphia

(c) Attorneys (Firm Name, Address, and Telephone Number)

Matthew B. Weisberg, Esquire
Weisberg Law, 7 South Morton Avenue, Morton, PA 19070
(610) 690-0801

DEFENDANTS

Bynum, et al.

14 7035

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

Philadelphia

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party) 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> I	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Property Damage Product Liability		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits		PERSONAL PROPERTY		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
		<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 893 Environmental Matters
			<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 865 RSI (405(g))
			<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 895 Freedom of Information Act
			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 896 Arbitration
			<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
			<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 950 Constitutionality of State Statutes
			Labor	
			SOCIAL SECURITY	
			<input type="checkbox"/> 861 HIA (1395ff)	
			<input type="checkbox"/> 862 Black Lung (923)	
			<input type="checkbox"/> 863 DIWC/DIW (405(g))	
			<input type="checkbox"/> 864 SSID Title XVI	
			<input type="checkbox"/> 865 RSI (405(g))	
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party	
			26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1983

VI. CAUSE OF ACTION

Brief description of cause:

CRUEL AND UNUSUAL PUNISHMENT / FAILURE TO PROVIDE MEDICAL

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

will Supply

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/9/14

SIGNATURE OF ATTORNEY OF RECORD

DEC 11 2014

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

S.T.

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 10608 St. Thomas Drive, Philadelphia, PA 19116
 Address of Defendant: 7901 State Road, Philadelphia, PA 19136
 Place of Accident, Incident or Transaction: Philadelphia, PA 19116
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

unknown

Yes No

Does this case involve multidistrict litigation possibilities?

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place ✓ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases
(Please specify)

B. *Diversity Jurisdiction Cases:*

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault; Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I _____, counsel of record do hereby certify:
 Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/9/14

Attorney-at-Law

85570

Attorney I.D.#

CIV. 609 (6/08)

DEC 11 2014



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Ker'ron Jones

v.

Bynum, et al.

CIVIL ACTION

14 7035

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

12/9/14
Date

Matthew B. Weisberg
Attorney-at-law

Plaintiff(s)
Attorney for

(610) 690-0801
Telephone

FAX Number

mweisberg@weisberglawoffices.com
E-Mail Address

Weisberg Law

Attorneys & Counselors at Law
LICENSED IN PA & NJ

GP

**7 SOUTH MORTON AVENUE
MORTON, PENNSYLVANIA 19070
PH: 610.690.0801
FAX: 610.690.0880**

Philadelphia County, Pennsylvania
1500 Walnut St., Ste. 1100
Philadelphia, PA 19102

Web-Site: www.weisberglawoffices.com
E-Mail: DBERLIN@WEISBERGLAWOFFICES.COM

14 7035

*Matthew B. Weisberg**
Graham F. Baird^
David A. Berlin^
Robert P. Cocco~+

*NJ & PA Office Manager
^Licensed in PA & NJ
~Licensed in PA
+Of Counsel

Tuesday, December 09, 2014

United States District Court
Eastern District of Pennsylvania
Office of the Clerk of Court
U.S. Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106-1797

RE: Ker'ron Jones v. Bynum, et al.

Dear Sir or Madam:

Kindly find enclosed one (1) original and one (1) copy of Plaintiff's Civil Action Complaint, along with a check in the amount of \$400.00, in regards to the above captioned matter.

Kindly file the original Complaint and return a time-stamped copy to the undersigned along with the Civil Action Summons.

Thank you.

Sincerely,
MATTHEW B. WEISBERG

MBW/hcm
Enclosures

GP

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Ker'ron Jones :
10608 St. Thomas Dr. :
Philadelphia, PA 19116 :

14 7035

Plaintiff, :

Civil Action No.:

v. :

Mr. Bynum, individually and in his official capacity as Corrections Officer for the Philadelphia Prison System :
7901 State Rd. :
Philadelphia, PA 19136 :

And :

Louis Giorla, individually and in his official capacity as Commissioner for the Philadelphia Prison System :
7901 State Rd. :
Philadelphia, PA 19136 :

JURY TRIAL DEMANDED

And :

Michele Farrell, individually and in her official capacity as Corrections Warden for the Philadelphia Prison System :
7901 State Rd. :
Philadelphia, PA 19136 :

And :

Philadelphia Department of Human Services :
d/b/a Philadelphia Prison System :
1515 Arch St. :
Philadelphia, PA 19102 :

And :

John Does 1-10 :

Defendants. :

CIVIL ACTION COMPLAINT

I. Jurisdiction and Venue

1. Jurisdiction in this Honorable Court is based on federal question conferred by 28 U.S.C. §1331; supplemental jurisdiction over state law claims is granted by 28 USC §1337.
2. Venue lies in this district in that the events giving rise to this claim occurred here, at least one (1) Defendant resides, maintains a principal place of business, and/or does business here, and/or the property which is the subject of this action is situated within this district.

II. Parties

3. Plaintiff, Ker'ron Jones, is an adult individual, currently residing at the above captioned address.
4. Defendant, Mr. Bynum, is an adult individual who, at all times material, acted individually, and/or as an agent, servant, workman, and/or employee of the Philadelphia Prison System, in his capacity as a Corrections Officer, acting under color of State law.
5. Defendant, Louis Giorla, is an adult individual who, at all times material, acted individually, and/or as an agent, servant, workman, and/or employee of the Philadelphia Prison System, in his capacity as Commissioner, acting under color of State law.
6. Defendant, Michele Farrell, is an adult individual who, at all times material, acted individually, and/or as an agent, servant, workman, and/or employee of the Philadelphia Prison System, in her capacity as Commissioner, acting under color of State law.
7. Defendant, Philadelphia Department of Human Services ("DHS"), is an agency of the City of Philadelphia, doing business as Philadelphia Prison System.
8. Defendants, John Does 1-10, is a moniker/fictitious name for individuals and entities currently unknown but will be substituted when known, as affiliated, associated or liable

hereunder for the reasons set forth below or inferred there from. Each of these parties are incorporated as Defendants in each and every count and averment listed above and below. Upon information and belief, Defendants, John Does, were agents, servants, workmen, or employees of Co-Defendant, liable to Plaintiff hereunder.

III. Operative Facts

9. Around January 2014, Plaintiff had surgery to reconstruct and reattach his bicep. Plaintiff was directed by his doctor to wear an arm brace for the next six (6) months because Plaintiff could not extend his arm during recovery.

10. On or about March 6, 2014, while incarcerated at Defendant, Curran-Fromhold Correctional Facility in Philadelphia, Plaintiff was strip searched (without any reasonable suspicion and despite the fact that Plaintiff was imprisoned for a non-violent misdemeanor) in his prison cell by a Sergeant, Defendant, John Doe. Plaintiff complied and explained to the Sergeant that he should not remove his arm brace.

11. A few hours later, Plaintiff was again strip searched (without any reasonable suspicion) by Defendant, Corrections Officer Bynum in the prison shower facility. Plaintiff again complied.

12. Next Bynum demanded that Plaintiff remove his arm brace. Plaintiff explained that he should not remove his brace and asked to speak to Bynum's supervisor.

13. Bynum ignored and Plaintiff and Bynum continued verbally disagreeing when suddenly Bynum sprayed Plaintiff in the eye with pepper spray.

14. Bynum then punched Plaintiff in the face, grabbed Plaintiff and slammed his head against a wall, and then swung Plaintiff to the shower floor. Plaintiff screamed in agony and did not fight back.

15. Soon, multiple Defendant, John Doe, Corrections Officers joined Bynum and all kicked Plaintiff while he lay on the floor. Around this time, Plaintiff noticed one of the John Doe Corrections Officer had a video camera and was recording the incident.

16. The corrections officers demanded that Plaintiff stand up but Plaintiff was too injured to comply.

17. Plaintiff was then helped to his feet and carried to the prison infirmary. Plaintiff was transported to an outside hospital later that evening.

18. Plaintiff spent about 20 more days in the prison hospital block before being released – during which time Plaintiff made numerous sick grievances which were ignored.

19. After his release, Plaintiff visited multiple doctors where he learned the full extent of his wounds. Plaintiff sustained, serious, severe and long-term (potentially permanent) injuries, including, but not limited to bicep, elbow and eye trauma, extreme and continuing pain requiring surgery and prescribed pain medications, together with various other injuries the exact extent of which are unknown at this time, including shock to Plaintiff's nerves and nervous system and severe emotional distress.

20. The conduct of Defendants was part of a custom, policy and/or practice and these customs, policies or practices caused the violations of Plaintiff's rights. Specifically, Defendant, DHS strip searches inmates who are imprisoned for non-violent offenses without any reasonable suspicion, use excessive force, and deny reasonable medical care, including by a failure to train, supervise, or otherwise as inappropriately acceptably common.

IV. Causes of Action

COUNT I **Excessive Force/Assault and Battery**

21. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

22. At the time of Defendants' conduct, Plaintiff had not committed any infraction or otherwise to legally justify the force used by Defendants.

23. Defendants' actions stated above, *inter alia*, were committed under color of state law and were violations of Plaintiff's clearly established and well settled Constitutional and other legal rights.

24. Defendants caused Plaintiff to suffer excessive force by their wrongful conduct all in violation of the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution, actionable through 42 U.S.C. §1983, et seq., and at Common Law.

COUNT II

Eighth Amendment Violation – Failure to Provide Medical Care and Treatment

25. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

26. Defendants showed deliberate indifference to Plaintiff's serious medical needs and wanton infliction of pain.

27. Defendants' actions stated above, *inter alia*, were committed under color of state law and were violations of Plaintiff's clearly establish and well settled Constitutional and other legal rights.

28. Defendants caused Plaintiff to suffer cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution, actionable through 42 U.S.C. §1983, et seq.

COUNT III
Monell

29. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

30. Prior to the events described herein, Defendants, DHS developed and maintained policies, practices, procedures and customs exhibiting deliberate indifference to the Constitutional rights of persons, which caused violations of Plaintiff's constitutional and other rights. Specifically, Defendant, DHS strip searches inmates who are imprisoned for non-violent offenses without any reasonable suspicion, use excessive force, and deny reasonable medical care, including by a failure to train, supervise, or otherwise as appropriately acceptably common.

31. The above described acts or omissions by Defendants, demonstrated a deliberate indifference to the rights of incarcerated citizens, such as Plaintiff, and were the cause of the violations of Plaintiff's rights as set forth herein.

32. Plaintiff suffered harm due to Defendants' conduct.

V. Prayer for Relief

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in his favor and against Defendants, individually, jointly and/or severally, in an amount in excess of seventy-five thousand dollars (\$75,000), plus such other and further relief as this Honorable Court deems necessary and just, and to Order the following relief:

- a. Statutory damages;
- b. Compensatory damages, including:
 - i. Actual damages for financial and physical injuries, including but not limited to wage loss and loss of earning capacity, and emotional distress;
 - ii. Attorneys' fees and expenses, and costs of suit.
- c. Injunctive relief, including;

i. Monitoring and training.

